REMARKS

The Office Action mailed November 18, 2005 has been carefully considered.

Claims 1-17 are pending and stand rejected.

Claims 1, 2, 4, 5, 9, 10, 12, 16 and 17 have been amended. Claims 2, 6-8, 10 and 13-15 have been cancelled.

Claims 1 and 9 stand rejected under 35 USC 112, second paragraph, as being indefinite. More specifically, the expression "non-incremental update" is alleged to be undefined.

Applicant respectfully disagrees in part with the reason for the rejection. However, in the interest of advancing the prosecution of this matter, the claims have been amended to remove the objected-to expression.

For at least these reasons applicant submits that the reason for the rejection has been overcome and respectfully requests that the rejection be withdrawn.

Claims 1-17 stand rejected under 35 USC 102(e) as being anticipated by Young (USP no. 6,898,681).

Applicant respectfully disagrees with and explicitly traverses the reason for rejecting the claims. However, in the interest of advancing the prosecution of this matter, the independent claims have been amended to more clearly state the invention. More specifically, the independent claims have been amended to include the subject matter recited in claim 2. Although the subject matter recited in claim 2 has been rejected citing the same reasons as those in rejecting claim 1, it will be shown the cited reference fails to teach or suggest the subject matter recited in claim 2.

Young discloses a system for providing a copy of data at a point in time that includes a data storage device including a master store arranged to store bocks of data, at least one subsidiary store to store point in time copy data having blocks of data copied from said master store at a particular point in time and a bitmap store associated with each of the subsidiary stores to store data indicating when a data block of the master store differs from a corresponding data block stored in the associated subsidiary store. (see Abstract).

The instant Office Action states that "the master store [of Young] represents the first volume [in the instant application] and shadow store [of Young] represents the second storage volume recited in the claims." The instant Office Action refers to col. 8, lines 56-67 and col. 9, lines 1-15 for teaching the claim element "protecting the data copy from being written over until the update to the copy of production data is performed." However a reading of the this section reveals that Young teaches switching the buffer used for the point in time copy when a new data point in time copy is desired. This is used to "create further point in time copy." (see col. 8, line 65).

Hence, contrary to the statements made in the Office Action Young fails to teach or suggest protecting a data copy, updating a session associate with the data copy and completing the copy of the production data, as is recited in the claims. Rather Young teaches using a second point in time copy buffer when blocks of data are copied from the master and does provide any teaching for updating a session associated with the [first] data copy as is recited in the claims.

It is well recognized that to constitute a rejection pursuant to 35 USC §102, i.e., anticipation, all material elements recited in a claim must be found in one unit of prior art.

Young cannot be said to anticipate the present invention, because Young fails to disclose each and every element recited.

At least for this reason, applicant submits that the rejection of the claim has been overcome and can no longer be sustained. Applicant respectfully requests withdrawal of the rejection and allowance of the claim.

With regard to the remaining independent claims, these claims recite subject matter similar to that recited in claim 1 and were rejected for the same reason used in rejecting claim 1. Thus, for the amendments made to these claims, which are similar to the amendments made with regard to claim 1 and for the remarks made in response to the rejection of claim 1, which are also applicable in response, and reasserted, as if in full, herein, applicant submits that the reason for rejecting these claims have been overcome and the rejection can no longer be sustained. Applicant respectfully requests withdrawal of the rejection and allowance of the claims.

With regard the remaining claims these claims ultimately depend from the independent claims, which have been shown to contain subject matter not disclosed by, and, hence, allowable over, the reference cited. Accordingly, these claims are also allowable by virtue of their dependency from an allowable base claim.

Accordingly, applicant respectfully requests withdrawal of the rejection and allowance of the claims.

In view of the foregoing, applicant believes that the application is in condition for allowance and respectfully request favorable reconsideration.

In the event the Examiner deems personal contact desirable in the disposition of this case, the Examiner is invited to call the undersigned attorney at 914 798 8505.

Applicant: Dennis Duprey, *et al.*
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Please charge all fees occasioned by this submission to Deposit Account No. 05-0889.

Respectfully submitted,

Dated: _____2/21/2006_____   _____
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